

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
TUESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19531 of 2001

Between:

1. Narsoji, S/o Buggoji, aged 60 years
 2. Chandraiah, S/o Ashappa, aged 50 years
 3. Mogulappa, S/o Ashappa, aged 48 years
 4. Thippanna, S/o Hanumappa, aged 45 years
- (All are agriculturists and residents of Manthalapur(v)
Basheera Mandal, R.R. District)
- PETITIONERS**

AND

1. The Joint Collector, Rangareddy District, Hyderabad.
 2. The Land Acquisition Officer & Sub Collector,
Vikarabad Division, R.R. District.
 3. The Executive Engineer, I & CAD, Vikarabad Division,
R.R. District.
- RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or writs, order or direction, declaring the Section 4(1) Notification under Land Acquisition Act, 1894 and all consequential proceedings in No.B/4781/85 on the file of the second respondent as illegal, arbitrary, and null and void and consequently to set aside the proceedings; award costs and pass such other and further orders.

Counsel for the Petitioners: MR.B.VIJAYSEN REDDY

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court Made the Following:

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ORDER:

The petitioners who were the owners of the agricultural land in question, by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, are complaining the action on the part of the respondents in passing the award in respect of the land acquired through notification dated 24-03-1988 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') and consequently to set aside the same.

In answer to the Rule nisi, the respondents filed a counter stating that the lands of the petitioners covered by survey Nos.17, 19, 21, 23, 24, 43, 44, 45 and 46 admeasuring Ac.20-01 guntas situated at Manthalapur village, Basheerbad Mandal, were taken possession in a phased manner on 01-11-1985, 01-02-1986 and 01-03-1987 followed by the notification dated 24-03-1988 under Section 4(1) of the Act invoking Section 17(4) enquiry under Section 5-A was dispensed with and declaration dated 08-04-1988 under Section 6 of the Act published in the Gazette. Thereafter, notices contemplated under

Sections 9(1) and 10 of the Act were published on 05-05-1988 and notices contemplated under Sections 9(3) and 10 of the Act were served on the petitioners and the like who participated in the enquiry and whose statements were recorded on 29-12-1988. It is admitted by the respondents in their counter that award could not be passed for want of funds from irrigation department.

Heard the learned Counsel appearing on behalf of the petitioners and the learned Government Pleader appearing on behalf of the respondents and perused the record.

It is contended by the learned Counsel appearing on behalf of the petitioners that the lands were taken possession during the years 1985, 1988 and 1987 by issuing notification in the year 1988, but, no award was passed for the last more than 16 years.

It is contended by the learned Government Pleader for the respondents that keeping in view the interim order of status-quo passed by this Court in the present writ petition and the order passed in C.P.No.15 of 2004 in W.P.No.23810 of 2002, the award enquiry was concluded and subsequently an award was passed on 21-04-2004, whereas the learned Counsel for the petitioners submitted that as contemplated under Section 12(2) of the Act, petitioners were not informed of passing of the award and no notice was served on them.

It is well settled that when advance possession was

taken prior to issuance of notification under Section 4 and declaration under Section 6 of the Act on issuance of notification under Section 17(1) and (4), and on expiration of 15 days from the publication of notice mentioned in Section 9(1), the possession previously obtained will be deemed to be possession under Section 17(1) of the Act and the land will vest in the Government free from all encumbrances. Therefore, the impugned notification cannot be set aside on failure to pass the award within two years as contemplated under Section 11(A) of the Act. But, however the petitioners are entitled to interest and other statutory benefits from the date of notification issued under Section 4(1) of the Act.

Accordingly the respondents are directed to serve a copy of the award and the notice contemplated under Section 12(2) of the Act to the petitioners forthwith. On such service, if the petitioners are aggrieved by the fixation of the compensation and payment of the statutory benefits including the interest, if any, they can seek reference under Section 18 of the Act.

The writ petition is accordingly disposed of. No costs.

2004
ghn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Joint Collector, Rangareddy District, Hyderabad.
2. The Land Acquisition Officer & Sub Collector,
Vikarabad Division, R.R. District.
3. The Executive Engineer, I & CAD, Vikarabad Division,
R.R. District.
4. Two CCs to the Government Pleader for Land Acquisition.
5. Two CD copies